

Commissioner for Patents
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REMARKS

I. Status of the Application.

Claims 1-6, 9-20, and 25 of the Application were pending as of the date of the Office Action. In the Office Action, the Examiner rejected claims 1-6, 9-20, and 25 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Publication No. 2003/0150909 to Markham ("Markham") in view of U.S. Patent Number 6,421,571 to Spriggs et al. ("Spriggs") in further view of U.S. Patent No. 6,524,230 to Harding et al. ("Harding"). Applicants respectfully submit that the following remarks incorporated herein overcome the Examiner's rejections of the Application.

II. The Rejections of Claims 1-6, 9-20, and 25 Under 35 U.S.C. § 103(a) As Being Obvious Over Markham In View of Spriggs and Further In View Of Harding Should Be Withdrawn.

Applicants respectfully submit that the rejections of claims 1-6, 9-11, 14-17, 20 and 25 should be withdrawn because neither Markham, Spriggs, or Harding, alone or in combination, disclose all the limitations of claims 1, 14, and 20. As required under *Graham v. John Deere Co.*, the first steps in determining obviousness is to determine the scope and content of the prior art and ascertain the differences between the prior art and the claims at issue. 383 U.S. 1, 17-18 (1966). "In determining (such) differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." MPEP §2141.02 (8th Ed., Rev. 6) (2007).

Applicants respectfully submit that Markham, Spriggs, and Harding in combination do not disclose the steps of setting both at least one alarm and at least one specification for the

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product as claimed in method claims 1-6 and 16-17, the steps of setting at least one range of specifications, at least one range of alarms for the at least one product as claimed in method claim 20 and 25, or the steps of notifying at least one user in real time when product data falls outside of the alarms and/or specification, as claimed in claims 1-6, 16-17, 20 and 25. In responding to the Applicants previous arguments, the Examiner does not assert that Harding discloses the claimed alarms or specifications but rather, again asserts that Markham in combination with Spriggs discloses both the steps of setting such alarms and specification for at least one product and notifying at least one user in real time when product data falls outside of the alarms and/or specifications. In doing so, Applicants respectfully submit that the Examiner misconstrues Spriggs and Markham and the claimed alarms and specifications.

As claimed and defined in the Application, the specifications are measurements of data related to a product and each alarm is a defined relative to one of the specifications in that its measurement of data is related in the same way to the product but is set above or below the specification. The Applicants have defined the term "specification" to mean "the values of a measure of a product that must not be exceeded or that must be exceeded for the user to sell the product" and the term "alarm" to mean the "values of a measure of a product that are close to and/or fall within the range of the values of the specification." (Application, p. 13, ll. 16-21). In contrast, the system alerts in Markham and the equipment/assets alarms in Spriggs are not set with regard to the product or in relation to one another.

Rather, Markham's alerts are set to only define a certain threshold of waste or delay in the system that cannot be exceeded (para. [0057-0062]) and Spriggs' alarms are set to only define a measurement that indicate when an asset or equipment needs maintenance. Thus, in contrast to

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the claimed invention, the combination of Spriggs and Markham yields a method that sets two unrelated alerts, neither of which are defined relative to the product: one to indicate when the assets or equipment need maintenance (Spriggs) and one to indicate when a specified waste or delay threshold has been exceeded after an event has occurred and information is gathered (Markham). For these reasons, Applicants respectfully submit that regardless of whether Spriggs discloses set point alarms, in-band alarms, or out-of-band alarms, it cannot be argued that Spriggs discloses the claimed alarms and Markham discloses the claimed specification, because Spriggs' measurement of when an asset or equipment needs maintenance is unrelated to Markham's threshold of waste or delay in the system.

Moreover, Applicants respectfully submit that the Examiner has failed to establish a prima case of obviousness for claims 1-6, 9-20, and 25, because the combination of Markham, Spriggs, and Harding does not disclose the claimed steps of automatically collecting and storing product specific data at regular time intervals. In the Office Action, the Examiner admits that neither Markham nor Spriggs disclose automatically collecting and storing product specific data at regular time intervals as claimed in claims 1-6, 9-20, and 25, but asserts that Harding teaches that data collected and stored at regular time intervals.

Harding discloses a method and apparatus for making packing materials that includes the use of a controller that communicates with various sensors and measuring devices in order to monitor and provide diagnostic information for one or more packing conversion machines. (Col. 2, ll. 32-43). The controller monitors operating characteristics of the conversion machines and provides visual and/or audible indications of such characteristics via a display. (Col. 4, ll. 60-67; Col. 5, ll. 1-6). Harding's controller provides such operational data in real time or near real time

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in order to permit an operator to access such operational information for the purposes of determining whether the machine is function properly or is in the need of preventive maintenance. (Col. 14, ll. 26-39).

Thus, similar to Spriggs and Markham, Harding fails to disclose the automatic collection or storing of product-specific data as claimed in claims 1-6, 9-20 and 25 and merely discloses the collection of data related to the operation of the machine to determine whether maintenance is need. The steps of automatically collecting and storing product specific data allows the claimed method to compare such data to the alarms and/or specifications in order to notify end users when the alarms or specifications are triggered in real time. Such a process is significant because it allows the user to take proactive steps to remedy any problems prior to defective products being produced. This in turn will allow the user to prevent or substantially reduce that amount of faulty products from being produced. Thus, the claimed method differs from the combination of Markham, Spriggs, and Harding because such a combination does not disclose automatically collecting or storing product specific data in order to compare such product specific data to set specifications and/or alarms for the products and notify an user in real time if such a specification and/or alarm is not met.

For these reasons, Applicants respectfully submit that neither Markham, Spriggs, nor Harding, alone or in combination, disclose all of the limitations of claims 1-6, 9-20 and 25 and the rejection of these claims under 35 U.S.C. § 103(a) as being obvious over Markham in view of Spriggs and in further view of Harding should be withdrawn.

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III. Applicants Petition for an Extension of Time.

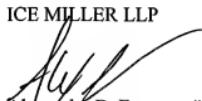
Applicants hereby petition for an extension of time of three (3) months, under 37 C.F.R. § 1.136(a), thereby extending the deadline for response, pursuant to 37 C.F.R. §§ 1.7(a) & 1.136(a), to Tuesday, October 7, 2008. Applicants authorize payment for this extension of time in the amount of \$1,100.00 to the identified credit card. When doing so, please reference the above-listed docket number for this file.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that claims 1-6, 9-20, and 25 are allowable claims and Applicants have made a patentable contribution to the art. Favorable reconsideration and allowance of this Application is therefore respectfully requested. In the event the Applicants have inadvertently overlooked the need for payment of an additional fee, Applicants conditionally petition therefore, and authorize any deficiency to be charged to deposit account 09-0007. When doing so, please reference the above-listed docket number.

Respectfully submitted,

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